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**MEMO ENDORSED**

November 11, 2020

**VIA ECF**

Hon. Judge Valerie Caproni  
United States District Court – SDNY  
40 Foley Square, Room 240  
New York, NY 10007  
carpninysdchambers@nysd.uscourts.gov

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**Re: Nestor Victor v. Sam's Deli Grocery Corp. et al**  
**Case No. 19-cv-2965-VEC**

**LETTER REQUESTING----**  
**ADJOURNMENT OF 11/13/2020 CONFERENCE**  
**EXTENSION OF TIME NUNC PRO TUNC TO FILE SETTLEMENT MOTION**

To Your Honor:

I am counsel to Plaintiff in the above-referenced matter, and I write to respectfully submit an application to adjourn the conference set by the Court for scheduled for November 13, 2020 at 11:30 am (Dkt. No.: 71). Counsel for the Plaintiff has a previously scheduled settlement conference with Judge Mann of the Eastern District on the same day at 10:00 am in the case *Lopez v. Deli Organic Shop Corp., et al.*, Case No.: 18-cv-06986-LDH-RLM. There are complicated issues to resolve in that case to achieve a settlement so I expect the settlement conference to last approximately two to two and half hours potentially. It is possible it could end earlier, but in an abundance of caution I hope to prevent any tardiness or difficulty in making the Court's ordered conference at 11:30 am.

I have emailed defense counsel (email address below) both to inform him of the scheduling conflict, with proposed dates, and left a voicemail with him as well. I also will email this letter

prior to the filing to inform counsel of the specifics of this letter. As of the filing of this letter, I have not heard a response from defense counsel. In order to conform to the Court's rules regarding 48 hours prior notice of an application for adjournment, Plaintiff now submits this application. This is the first application for an adjournment of this conference.

I propose adjourning the conference set for Friday until the afternoon of the same day, after 12:30 pm, at the Court's convenience. Additionally, counsel is available anytime on Monday, November 16, 2020 and Tuesday, November 17, 2020, at the time most convenient for the Court and defense counsel.

Additionally, Plaintiff would like to make an application to adjourn the previous deadline of November 6, 2020 (Dkt. No.: 70), *nunc pro tunc*, until November 15, 2020. Plaintiff extends its apologies to the Court for not requesting this adjournment timely in accordance with the Court's order and part rules. Due to a calendaring issue in this office, Plaintiff was unable to file the motion in time. Additionally, it appears defense counsel, who did not contact me with the signed settlement agreement prior to November 6, 2020, inadvertently missed the deadline as well. Plaintiff respectfully request that the Court pardon the excusable error and allow the Parties to finalize the agreement with the Court. This is the second request of the aforesaid deadline, jointly requested by the Parties the first time.

Plaintiff and Plaintiff's counsel thank the Court for its time and consideration in this matter. We await the Court's decision and stand ready to formally resolve this matter.

Best regards,

*/s/ Kevin S. Johnson, Esq.*

Kevin S. Johnson, Esq.  
MICHAEL FAILLACE & ASSOCIATES, P.C.

**CC VIA ECF/EMAIL:**

**Enrique Armando Leal, Esq.**

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**Harold H. Weisberg, Esq.**

Hhw1@verizon.net

The November 13, 2020 teleconference scheduled for 11:30 a.m. is adjourned until **November 13, 2020 at 2:30 p.m.** Plaintiff's application for an additional adjournment, *nunc pro tunc*, of the deadline to file the parties' proposed settlement agreement and joint letter is DENIED, pending the November 13 teleconference. In its November 2, 2020 order granting the parties' first request for an adjournment of the deadline, the Court warned the parties that additional extensions were unlikely to be granted and explicitly instructed the parties to heed the Court's Individual Practices concerning requests for adjournments. The parties have now failed to follow this Court's orders and Individual Practices on multiple occasions and have failed to provide satisfactory reasons justifying those failures.

SO ORDERED.



11/12/2020

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE